

REMARKS

The Office Action mailed on March 31, 2005 has been carefully reviewed and considered. Claims 12, 13, 16-31 are currently pending and Claims 12, 13, 16 and 18-20 stand rejected. Reconsideration in view of the following remarks is respectfully requested.

Applicants thank the Examiner for considering the amendments and remarks in Applicants' response mailed on February 28, 2005. Applicants further thank the Examiner for allowing Claims 17 and 21-31.

The 35 U.S.C. § 103 Rejection

The Office Action has rejected Claims 12, 13, 16 and 18-20 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Crabtree¹ in view of Younker,² and Bailey³ among which Claim 12 is the independent claim. Without admitting that Crabtree, Younker and Bailey are prior art and reserving the right to establish that they are not prior art, Applicants respectfully traverse this rejection.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.⁴

Claim 12 of the present invention recites in part:

¹ U.S. Patent No. 3,520,060.

² U.S. Patent No. 5,951,301.

³ U.S. Patent No. 5,800,179.

⁴ M.P.E.P. § 2143.

An apparatus, comprising:

a mock anatomical site having an orifice, the orifice being configured to receive a peripheral device, wherein the mock anatomical site is pivotable, the pivotable mock anatomical site further including a retainer, a first ring disposed proximate to the orifice, the ring being configured to rotate about the retainer, and a locking mechanism configured to prevent movement of the orifice when the locking mechanism is in a locked position;

a resiliency-providing material disposed between the mock anatomical site and a sensing assembly;

In other words, Claim 12 claims a pivotable mock anatomical site that includes an orifice, a retainer, a first ring and a locking mechanism. The Office Action, however, asserts that

“[r]egarding claim 12, Crabtree et al discloses a mock anatomical apparatus,... wherein the mock anatomical site is pivotable, the site further containing a retainer and a first ring disposed proximate to the orifice, the ring configured to rotate about the retainer (Col 3, lines 65-70).”

See page 3 of the Office Action. Applicants respectively disagree with this assertion. Column 3, lines 65-70 of Crabtree states that,

The skull 12 is mounted, by means of suitable screws or bolts 50, to a first vertical rod 52 carrying a ball 54 on the end thereof. In turn, the ball 54 is carried in a suitable socket (not shown) at the upper end of a second vertical rod 56 which is initially coaxial with the first rod 52.

Crabtree essentially discloses a skull 12 that can be mounted on a rod 52, which carries a ball 54 on the end thereof. Crabtree, however, has never mentioned or suggested a mock anatomical site that contains a retainer and a first ring. As such, Crabtree does not teach or disclose the element of the mock anatomical site that contains a retainer and a first ring wherein the ring is configured to rotate about the retainer.

The Office Action further asserts that Crabtree discloses “a locking mechanism that is configured to prevent movement of the orifice when the locking mechanism is in a locked position (Col 4, lines 56-63).” See page 3 of the Office Action. Applicants respectively disagree with this assertion. Column 4, lines 65-63 of Crabtree states that,

In order to lock the mouth in either open or closed position, or for that matter in any intermediate position, a suitable locking and ratchet mechanism is also provided as part of the means 30. This locking and ratchet mechanism comprises an elongated rack 90 which is rigidly mounted by suitable mounting means, such as screws 92, within the skull 12 below the slot through which the lever 32 projects.

In other words, Crabtree discloses a lock system that controls various opening positions of a mouth of a skull. Crabtree, however, never discloses or suggests a locking mechanism that is configured to prevent movement of the orifice (or the skull itself) when the locking mechanism is in a locked position. As such, Crabtree does not teach or suggest a locking mechanism as claimed in the present invention. Accordingly, neither the element of a mock anatomical site having a retainer and a first ring nor the element of a locking mechanism is disclosed by Crabtree.

The Office Action correctly recognizes that Crabtree et al does not specifically disclose a resiliency-providing material or a sensing assembly. However, the Office Action asserts that Younker teaches the resiliency-providing material (Col 4, lines 56-63). Moreover, the Office Action further recognizes that Younker does not disclose the sensing assembly. The Office Action, however, contends that Bailey teaches the sensing assembly. The Office Action further asserts that it would be obvious to one having ordinary skill in the art at the time of the invention to combine Crabtree, Younker, and Bailey to practice the presently claimed invention. The Applicants respectfully disagree with this assertion.

Applicants respectfully submit that a desired outcome that the invention provides cannot be used as the motivation to combine the references if there is no such teaching in the references. Since neither Crabtree nor Younker and Bailey teach or suggest a combination between Crabtree, Younker and Bailey, Applicants contend that there is no teaching to combine.

Even assuming for the sake of argument that Crabtree and Younker and Bailey were combined, the combination would still fail to render the present invention obvious because neither Crabtree nor Younker and Bailey nor a combination of the three discloses or suggests a pivotable mock anatomical site that includes an orifice, a retainer, a first ring and a locking mechanism. Accordingly, one of ordinary skill in the art would not combine Crabtree and Younker and Bailey, because even if they were combined, the combination would still fail to disclose or suggest each and every element disclosed in Claim 12. At least for the reasons stated above, Claim 12 is patentable over Crabtree in view of Younker and Bailey under §103.

If the independent claims are valid, the claims that depend from the independent claims should also be valid as matter of law. See Jenric/Pentron, Inc. v. Dillon Co., 205 F. 3d 1377, 1382 (Fed. Cir. 2000). Since Claims 13, 16 and 18-20 depend from allowable independent Claim 12, Claims 13, 16 and 18-10 should also be patentable as matter of law.

Conclusion

Based on all of the above, Applicants believe all claims now pending in the present application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

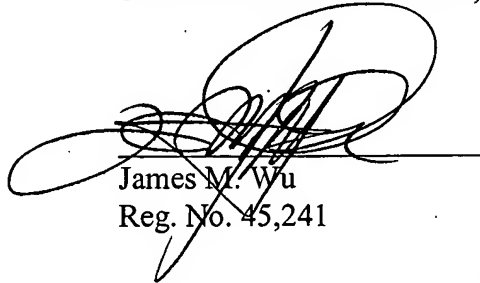
No additional fees are believed to be due at this time. However, please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Applicants thank the Examiner for carefully examining the present application and if a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Jim Wu at (408)282-1885.

Respectfully submitted,

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Dated: August 31, 2005



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